

OFFICE OF INTERNATIONAL AND TRIBAL AFFAIRS

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FY 2023-2024 NATIONAL PROGRAM GUIDANCE

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SECTION I. INTRODUCTION

The Office of International and Tribal Affairs (OITA)'s National Program Guidance (NPG) describes how the Environmental Protection Agency (EPA) will work to protect human health and the environment by advancing U.S. national interests through international collaboration and strengthening EPA and federally recognized Indian tribe (Tribe) implementation of environmental programs in Indian country.

This Guidance addresses both the Tribal and International Programs and provides direction to the Agency on programmatic priorities for FY 2023-2024 consistent with the Agency's FY2022- FY2026 Strategic Plan and the FY 2023 President's Budget. When developing the Guidance, OITA carefully reviewed and considered the state, Tribal, and territory priorities identified through EPA's early engagement process. Our Tribal and international partnerships extend to all aspects of the Agency's work and involve every National Program Manager (NPM) and Region. This guidance is a guide to OITA's key priorities, not a comprehensive compendium of activities and requirements. OITA works collaboratively to identify priorities, assuring alignment with national and international priorities. Specific expectations and deliverables will be established through negotiations in grant agreements between EPA regions and Tribes.

OITA plays a crucial role in advancing the Agency's relationship and environmental priorities with sovereign nations outside the United States and Tribes within the United States. Working with leaders and experts from EPA's program and regional offices, other government agencies, Tribes, foreign governments, and international organizations, OITA identifies international environmental issues that adversely affect the United States and helps implement technical and policy options to address such issues. At the same time, OITA works to protect human health and the environment in Indian country in the United States according to principles established through federal Indian law, and as outlined in EPA's 1984 *Policy for the Administration of Environmental Programs on Indian Reservations* (1984 EPA Indian Policy).¹ Activities and funding supported by OITA and EPA's Tribal Program will also help achieve the goals of President Biden's Justice40 initiative, which aims to ensure that federal agencies deliver at least 40% of benefits from certain investments to underserved communities.

Activities in OITA's guidance encompass activities that may carry forward to future years; any out-year activities are included to inform our Tribal and international partners of potential future work to assist with planning.

The "[EPA Overview to the National Program Guidance](#)"² communicates important background and agency-wide information, and should be read in conjunction with OITA's guidance.

¹ Available at <https://www.epa.gov/sites/production/files/2015-04/documents/indian-policy-84.pdf>.

² <https://www.epa.gov/planandbudget/national-program-guidances-npgs>

SECTION II. PROGRAM PRIORITIES, STRATEGIES, AND ACTIVITIES

International Priorities- Strategic Approach to Engagement with Global Partners

The primary purpose of EPA's international program is to protect human health and the environment by working with other countries and international organizations to address domestic and global environmental problems and risks. To achieve our domestic environmental and human health objectives, work with international partners is essential to successfully address transboundary pollution adversely impacting the United States. Environmental challenges such as the climate crisis cannot be successfully addressed by the United States alone and therefore EPA has a responsibility to work with the international community to ensure a healthy future for all U.S. citizens, protect the global commons, support a robust and sustainable economy creating good jobs, and advance strong environmental governance by deploying our expertise and innovation. We will continue to work with our international partners to strengthen environmental protection internationally through environmental laws and governance that more closely align with U.S. standards and practices helps build a level playing field for U.S. industry operating abroad while supporting foreign policy objectives outlined by the White House, the National Security Council, and the Department of State. OITA works with NPMs and Regional Offices to formulate U.S. international policies and to implement EPA's international programs that provide policy and technical assistance to other countries. OITA will strengthen its focus on prioritizing, allocating resources, and managing assistance agreements to advance the Agency's long-term performance goals and international priorities while maximizing limited resources most effectively and efficiently.

Combatting the Climate Crisis through International Efforts

Climate change is a global issue that has far-reaching human health, social, economic, and biodiversity impacts on the planet, with direct adverse effects in the United States. To successfully address this crisis, aggressive action from all nations is needed. EPA is prioritizing efforts to help countries respond domestically to the climate crisis by reducing their greenhouse gas (GHG) emissions as well as increasing equitable adaptation and resiliency to climate change impacts. Building on EPA's responsibilities for protecting human health and the environment, EPA plays a critical role internationally by providing technical expertise, guidance, and capacity building to help countries set and meet their GHG reductions, improve adaptive capacity, and strengthen climate governance.

[Executive Order 14008](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/)³ directs federal agencies to develop plans for integrating climate considerations into their international work, as appropriate and consistent with applicable law. In response, EPA developed an International Climate Strategy Plan to advance climate assistance internationally at the Tribal/Indigenous, national, city, and local levels and to provide leadership on the global stage to address climate change. EPA support will increase partner countries' abilities to

³ <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/>

integrate climate change mitigation and adaptation actions and information into their relevant domestic policy and engagement decisions. This is consistent with the Agency's domestic climate work and its mission to protect human health and the environment, including from transboundary pollution sources. EPA's International Climate Strategy Plan outlines activities where EPA can contribute to help address the global climate crisis. These activities include a focus on overburdened and underserved communities that are most susceptible to impacts from climate change and may be disproportionately affected by climate change mitigation and adaptation actions. To achieve the goals of E.O. 14008, EPA will promote tools and initiate capacity building and technical assistance programs in countries where EPA expects to have the greatest potential to impact the following issues:

- Reducing potent climate forcers: black carbon, methane, ozone, and hydrofluorocarbons (HFCs).
- Improving household and commercial energy efficiency.
- Reducing GHG emissions from the transport sector.
- Improving integrated air quality management.
- Supporting fulfillment of commitments under the Paris Agreement and other international climate related agreements.
- Strengthening climate governance through a suite of model laws, regulations, partnerships, and strategies that build country capacity to strengthen, implement, and enforce domestic policies.
- Improving integrated air quality management, including consideration of clean air and climate co-benefits and GHG modeling, monitoring, and reporting.
- Boosting national and local adaptation and resilience strategies to the impacts of climate change in an equitable and just manner.
- Supporting resource efficiency actions to reduce GHG emissions from overlooked sources.

Advancing the Value of Environmental Justice and Equity

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. This goal will be achieved when everyone enjoys the same degree of protection from environmental and health hazards, and equal access to the decision-making process to have a healthy environment in which to live, learn, and work. These same goals apply to EPA's international work. As such, EPA will advance environmental justice principles in all its multilateral policy work and bilateral technical assistance. This includes advancing policies, exchanging information and / or providing technical assistance in the following areas: advancing equity or environmental justice issues in multilateral fora like the G7, G20, United Nations (UN), and Organization of Economic Cooperation and Development (OECD).

- Identifying opportunities to amplify the voices and address environmental public health concerns of vulnerable and underserved communities in bilateral cooperation with key countries through their respective domestic laws, regulations, policies, and programs

- Promoting international indigenous issues in collaboration with the White House Council of Native American Affairs

Addressing Transboundary Pollution in North America and Around the Globe

Pollution does not stop at national borders. Transboundary flows of pollutants occur globally and regionally, including between the United States, Mexico, and Canada. EPA works with its immediate neighbors through the North America Commission for Environmental Cooperation (CEC) to advance sustainability, environmental, ecosystem and health protections. EPA also works with key countries bilaterally and works to address global and international flows and sources of pollution through various international forums. This work addresses atmospheric mercury and other air pollutants, marine litter, emissions from maritime transport, persistent organic pollutants, and Arctic contaminants.

- EPA will continue technical and policy assistance for global and regional efforts to address international sources of harmful pollutants, such as mercury. Because [70% of the mercury⁴ deposited](#) in the U.S. comes from global sources, both domestic efforts and international cooperation are important to address mercury pollution. Specifically, EPA leads the technical implementation of the Minamata Convention on Mercury for the U.S. to eliminate mercury emissions worldwide, and to promote innovative approaches to reducing and mitigating black carbon and methane through the Arctic Contaminants Action Program.
- The United States assumes the Chair of CEC in July 2024. The CEC Chair is responsible for hosting ministerial-level meeting that EPA will lead for the USG to advance the Biden-Harris Administration's priorities on the conservation, protection, and enhancement of the environment in North America including sustainable management and use of natural resources, in achieving sustainable development through the recognition of the unique environmental, economic, and social links consistent with advancing the CEC environmental goals and objectives.
- EPA's U.S.- Canada Bilateral Program helps co-manage important shared resources like the Great Lakes, shared airsheds, and watersheds such as Kootenai that address transboundary pollution that originates in Canada but flows into our waters. Specifically, EPA will continue to engage collaboratively with Canada to advance environmental protection and protect human health on issues such as oil spill prevention, marine litter, mining impacts, preparedness, and response coordination along our joint border.
- Through the U.S.-Mexico Border Program, EPA will continue to work with Mexico on air quality, water quality, waste management and emergency response to protect U.S. and Mexican communities from transboundary pollution and build better water infrastructure.
- EPA will engage multilaterally and bilaterally to prevent and reduce marine litter, an increasingly prominent global issue that can negatively impact water resources, tourism,

⁴ <https://nap.nationalacademies.org/catalog/12743/global-sources-of-local-pollution-an-assessment-of-long-range>

industry, and public health in the U.S. Because [80 percent of marine litter⁵ comes](#) from land-based sources of waste, countries with inadequate waste management contribute to the pollution in our shared oceans. EPA will continue to work with other federal agencies to advance sound policy approaches for global action on marine litter, including through the development of a new legally binding instrument on marine litter.

Investments in Environmental Infrastructure, Green Economy and Green Jobs

OITA protects human health and the environment while advancing U.S. national interests through international environmental collaboration. Working with experts from EPA's media programs and regional offices, other government agencies, other nations, and international organizations, OITA identifies international environmental issues that may adversely impact the United States and helps to design and implement technical and policy options to address them. EPA has a leading role in new investments in environmental infrastructure, and we are working to position the U.S. as a global leader on sustainable water infrastructure, renewable energy and zero emission vehicles, which is supporting a new generation of jobs for the growing an inclusive and green economy.

- EPA will continue to engage with the international community on circular economy and resource efficiency, including efforts to address food loss and waste and marine litter. [Food loss and waste accounts for 8% of global anthropogenic greenhouse gas⁶](#) (GHG) emissions (4.4 gigatons CO₂e annually). EPA is committed to achieving the U.S. national goal of reducing food loss and waste by half by 2030 by deploying resource efficiency principles.
- Congress has mandated swift action by EPA and other federal agencies on Marine Plastic Pollution through the [Save Our Seas 2.0 Act⁷](#). Because 80% of the world's marine plastic pollution comes from land-based sources of pollution, EPA is focused on preventing plastic pollution from entering oceans and waterways by increasing recyclability, encouraging sustainable alternatives, and improving waste management.
- EPA also has a key role in advancing resource efficiency to ensure that we are greening global supply chains and building environmentally protective international standards that support a global green economy and American manufacturing and jobs.

Promote Good Environmental Governance

Countries need strong institutional structures to develop sound environmental policies and enforce environmental protections. EPA is an international leader, with the largest technical and regulatory expertise in the world on environmental and health protection, and we are committed to sharing our

⁵ <https://www.scienceintheclassroom.org/research-papers/plastic-waste-inputs-land-ocean>

⁶ https://www.epa.gov/system/files/documents/2021-11/from-farm-to-kitchen-the-environmental-impacts-of-u.s.-food-waste_508-tagged.pdf

⁷ <https://www.congress.gov/bill/116th-congress/senate-bill/1982/text>

expertise and collaborating with partner countries around the world. EPA will engage on trade policy development and with countries to build capacity for good governance, including judicial and legal frameworks and public participation approaches. OITA coordinates with EPA's Office of Enforcement and Compliance Assurance and Office of General Counsel in conducting trainings, hosting study tours, and managing bilateral programs on good governance. Governance issues span environmental media. OITA will coordinate with NPMs and regions in promoting good environmental governance policies internationally.

- Air pollution accounts for an [estimated 1 in 8 deaths globally per year and approximately 91% of the world's population](#)⁸ lives in places where they breathe polluted air. Internationally, EPA supports a variety of air quality management approaches and solutions, including capacity building and tools, technology evaluations, and joint studies.
- Globally, [785 million people lack even a basic drinking water service](#)⁹, most of whom who live in communities that are vulnerable and underserved. EPA has developed a variety of water management approaches and solutions for drinking water and wastewater treatment systems as well as water reuse.
- Chemicals, like mercury and lead, are prevalent in everything from food to consumer goods. As EPA works to implement strong chemical protections in the U.S., we will also work with our global partners to provide similar protections for their goods and services and ensure high standards of safety around the world.
- EPA's actions are based on a strong commitment to the rule of law and sound science. EPA partners with key countries to develop and support the promotion of good governance, strengthen judicial and legal structures, develop regulatory systems, and support scientific research necessary for effective environmental protection around the world.
- EPA engages with the White House, other U.S. federal agencies, and stakeholders to shape U.S. trade policies, protect the integrity of U.S. domestic regulatory policies, and promote good environmental governance with our trading partners.

SECTION III. TRIBAL PROGRAM PRIORITIES AND STRATEGIC APPROACH

Administration of the EPA Tribal Program

OITA, through the American Indian Environmental Office (AIEO), leads the Agency's efforts to implement the *EPA Policy for the Administration of Environmental Programs on Indian Reservations* ([1984 EPA Indian Policy](#)¹⁰). The 1984 EPA Indian Policy provides the framework for EPA's relationship with federally recognized Indian tribes (Tribes) and works to identify mechanisms EPA uses to

⁸ <https://www.who.int/teams/environment-climate-change-and-health/air-quality-and-health/ambient-air-pollution>

⁹ https://www.cdc.gov/healthywater/global/wash_statistics.html#:~:text=Globally%2C%20more%20than%20785%20million,have%20safe%20water%20to%20drink.&text=The%20proportion%20of%20the%20global,%25%20from%2061%25%20in%202000

¹⁰ <https://www.epa.gov/tribal/epa-policy-administration-environmental-programs-indian-reservations-1984-indian-policy>

implement environmental programs in Indian country under federal environmental laws. EPA will continue to embrace and promote the principles found in the 1984 EPA Indian Policy and work to incorporate the principles into the media-specific priorities, goals, and measures that EPA implements. This approach helps EPA ensure that Tribes are provided the opportunity to build the capacity to implement programs on their own and/or meaningfully participate in the Agency's policy making, standard setting, and direct implementation activities under federal environmental statutes that may affect their tribal interests.

EPA's Tribal Program activities are strongly represented in the overarching goals and cross-agency strategies of the FY 2022-2026 EPA Strategic Plan including the priority areas of climate, environmental justice and partnership:

- Goal 1: Tackle the Climate Crisis,
- Goal 2: Take Decisive Action to Advance Environmental Justice and Civil Rights, and
- Cross-Agency Strategy 4: Strengthen Tribal, State, and Local Partnerships and Enhance Engagement.

As a new practice, OITA's National Program Guidance includes an appendix that lists key provisions for Tribes found within all the EPA National Program Guidances. The appendix allows Tribes to more easily locate and navigate among the EPA National Program Guidance Tribal priorities and references quickly and easily. The appendix also contains a summary of Performance Partnership Grants (PPG) eligible grants.

Implementation of Federal Environmental Programs in Indian Country and Environmental Justice

EPA works with federally recognized Tribal governments, indigenous persons and Tribal communities, who are often disproportionately impacted and vulnerable, to integrate Environmental Justice principles. A key priority in Goal 2 of the EPA Strategic Plan is that EJ principles and equal protection require that implementation of federal environmental law protections be as robust inside Indian country as EPA requires these protections to be outside of Indian country. EPA will continue to work directly with Tribes to achieve implementation of federal environmental programs in Indian country by:

- Supporting Tribal implementation of federal programs as co-regulators where possible
- EPA direct implementation of federal programs in Indian country
- OITA also continues to build and solidify its partnership with the Office of Environmental Justice (OEJ), amplifying and creating linkages to training, tools, and funding resources available to support Tribes as they further develop capacity to adopt and advance meaningful involvement processes for tribal communities.

Tribal Implementation of Federal Environmental Laws

Tribal implementation occurs when the federal program is authorized for implementation and then implemented by the Tribal government. The delegation of authority process is commonly referred to as the programmatic Treatment as a State (TAS) approval process. TAS is a formal process of program

delegation, approval, or authorization from EPA to a Tribe authorizing the Tribe to implement the specific federal environmental program. For a list of programs delegated and approved for Tribal implementation see <https://www.epa.gov/tribal>. Through funding under the OITA-administered Indian Environmental General Assistance Program (GAP), OITA will continue to support Tribal capacity-building to plan, develop, and establish Tribal environmental protection programs consistent with other applicable provisions of law administered by EPA and with the goal of advancing Tribal efforts of meaningful involvement with federal environmental programs that affect Tribal interests. OITA has identified several actions that will assist in these efforts in this National Program Guidance.

EPA Direct Implementation (DI) of Federal Environmental Laws in Indian Country

Ensuring EPA direct implementation of federal environmental programs in Indian country is in keeping with the federal trust responsibility. Incorporating environmental justice principles such as equity, meaningful involvement and fair treatment when the Agency directly implements federal environmental programs will advance environmental justice for federally recognized Tribes. A continuing emphasis on ensuring federal program implementation in Indian country is the highest priority of the EPA tribal program and the most proactive way the Agency acts to protect human health and the environment for Tribes and persons living in Indian country and in other areas of Tribal interest.

EPA direct implementation of a federal program in Indian country occurs when a federal program has not been delegated to a federally recognized tribe and is instead directly implemented by EPA in Indian country. In general, this occurs where a federal program is not legally delegable, or where a Tribe has not sought a delegation of authority (e.g., TAS) for the specific federal environmental program.

EPA performs direct implementation to ensure federal law protections are in place and complied with for the benefit of human health and the environment in Indian country. In general, unless and until a tribal government has assumed full responsibility for a delegable program, the applicable federal environmental regulatory programs are directly implemented by EPA. At this time, EPA directly implements the vast majority of federal environmental programs in Indian country. This is why EPA's direct implementation responsibilities are so significant. It should be noted that EPA direct implementation responsibility is separate from EPA oversight authority of a state or Tribally delegated program. When implementing this NPG, EPA will focus on EPA's DI responsibilities under seven major EPA statutes: CWA, CAA, CERCLA, FIFRA, RCRA, SDWA, and TSCA.

EPA conducts a large number and variety of direct implementation actions under these major EPA statutes, and these actions can vary widely. To enable EPA to assess improvements across this diverse set of activities, EPA is capturing progress by aligning them into defined categories of significant actions for measurement under the EPA Strategic Plan. The categories of significant actions are:

- Conduct training for EPA DI staff for each EPA DI program.
- Contribute to an EPA DI report identifying barriers in the offices' DI program and making recommendations.

- Place EPA DI federally regulated facility and federally regulated entity locational information/data onto EJSCREEN for each EPA DI program.
- Develop a follow up report that lists significant actions taken and measures the implementation improvement in Indian country resulting from those actions.

Measurement of these significant actions will occur on an Agency-wide basis over the course of implementation of the EPA Strategic Plan to ensure federal environmental programs are as effective in Indian country as they are throughout the rest of the Nation. OITA will also measure the number of EPA-Tribal Environmental Plans (ETEPs) that include EPA direct implementation information to monitor EPA's activities affecting the Tribe and assist both EPA and Tribes during negotiation of these mutual planning documents.

Building Capacity of Tribes

EPA's actions will advance and integrate environmental justice into all of our work, including our work with Tribes and indigenous peoples. OITA actions include support through grant funding for Tribal government efforts to establish or modify public participation programs on priority environmental justice water and air quality issues. EPA is committed to assisting federally recognized Tribes in building capacity to establish public participation, community involvement, education, and communication systems to engage with Tribal members and others living on tribal lands as guided by the EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples.

Advancing Partnership through EPA-Tribal Environmental Plans (ETEPs)

To strengthen Tribal partnerships under Cross Agency Strategy 4, EPA will work with each Tribe to develop and implement an EPA-Tribal Environmental Plan (ETEP) which supports the 1984 EPA Indian Policy. ETEPs are jointly developed documents outlining how EPA and each Tribe will work together to protect human health and the environment within the context of EPA authorities. ETEPs are also a planning and communication tool for the Tribe and EPA that provides a road map for future decision-making. Understanding the needs and priorities of each Tribe provides a framework for performance measures and more broadly allows for a focused government-to-government discussion on actions to meet short-term and long-term mutually developed human health and environmental goals. ETEPs set the stage for stronger environmental and human health protection in tribal communities.

ETEPs are negotiated at the EPA regional level. Execution of an ETEP should include an inventory of EPA direct implementation regulated facilities and entities in each Tribes' jurisdictional area. This effort will be greatly assisted through the EPA Strategic Plan Goal 2.1 Long Term Performance Measure requiring EPA programs to take significant direct implementation actions including showing EPA regulated facilities and entities in Indian country on EJSCREEN. ETEPs should also include identifying federal and other leveraging and funding opportunities based on mutual priorities, targeting training, technical assistance to address Tribal capacity development needs, and providing the Tribe with information on EPA's direct implementation responsibilities and activities. Clarity on EPA's direct implementation responsibilities assists EPA to prioritize its responsibilities and resources

on areas of need for human health and environmental protection based upon the agreed upon priorities, environmental protection needs, and available resources, and may be beneficial to Tribes in identifying where they have interest in seeking federal authorities or assuming specific roles and responsibilities to partner with EPA.

Efforts to Combat the Climate Crisis

Climate change exacerbates existing pollution problems and environmental stressors impacting the nation's land, air, and water and the people who depend on them. The climate crisis is a serious threat to Tribes and communities, who are particularly vulnerable to impacts from climate change. Tribes are experiencing disproportionate impacts to Tribal lands and natural resources closely tied to traditions and cultural identities. EPA's Tribal Program priority is enhancing adaptation and resilience of Tribal communities affected by climate change and addressing transboundary pollution impacting tribal communities. OITA will take bold steps and align its actions to respond decisively to the climate crisis to ensure we spend our energy on actions that are meaningful to EPA and Tribes.

AIEO has identified 4 priority actions for inclusion in OITA's Climate Adaptation Implementation Plan.

- Host listening session with other NPMs (OW, OAR, OLEM, OCSPP, OECA) to engage with and receive input on climate priorities from tribal governments and inform the development of AIEO's portion of the OITA Climate Adaptation Implementation Plan
- Improve Tribal Climate Change Adaptation Capacity Development through the use of GAP. OITA will work with regions to develop fact sheets and training to GAP Project Officers to highlight climate related opportunities that are GAP-eligible and identify opportunities for joint federal grant opportunities to leverage resources and align work.
- Align EPA climate efforts with the Tribal Treaty Rights (TTR) Memorandum of Understanding (MOU) including through Collaboration with other federal agencies through the WHCNAAC Committee to identify best practices for protecting treaty and reserved resources impacted by climate change.
- Incorporate Indigenous Traditional Ecological Knowledge (ITEK) into Agency decision making

as guided by the White House Council on Native American Affairs (WHCNAAC) Interagency Workgroup and provide training to EPA staff.

Infrastructure

As a result of the Infrastructure Investment and Jobs Act (IIJA), also referred to as the Bipartisan Infrastructure Bill (BIL), EPA is investing more than \$60 billion in the health, equity, and resilience of American communities, including resources for Tribes and other communities in Alaska. EPA has a leading role to implement new investments in environmental infrastructure in four major EPA programs. Tribes are eligible entities within all of these programs to apply to or benefit from BIL investments. To optimize opportunities and benefits for Tribes, EPA works closely with our federal partners through the White House Council of Native American Affairs to coordinate and leverage resources under the Bipartisan Infrastructure Law, and EPA is streamlining our outreach and

communications regarding resources available to Tribes. In strategic partnership with OAR, OCSPP, OLEM, and OW, OITA is committed to help build Tribal community capacity to apply for and benefit from BIL investments, and to engaging with Tribes on the resources for Tribes and their communities under the Bipartisan Infrastructure Law.

Improving Tribal Consultation and Coordination

Effective communication and coordination with Tribes is crucial to receiving Tribal input, sharing information and ensuring Tribes are aware of new policies and efforts early in the process. OITA leads EPA's implementation of the *EPA Policy on Consultation and Coordination with Indian Tribes* (Consultation Policy), the *Guidance for Discussing Tribal Treaty Rights* (Treaty Rights Guidance), and Executive Order 13175 *Consultation and Coordination with Indian Tribal Governments* (EO 13175). The Consultation Policy states that EPA "consults on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests."

EPA, through input from offices and regions, makes consultation opportunities available on the Tribal Consultation Opportunities Tracking System (TCOTS) available at <http://tcots.epa.gov>. EPA recently updated TCOTS based on feedback from the user community, providing easier access to important information regarding each individual consultation opportunity. EPA Assistant Administrators and Regional Administrators implement the Consultation Policy, Treaty Rights Guidance, and EO 13175 in their respective offices under the oversight of OITA's Assistant Administrator as the EPA Designated Tribal Consultation Official.

As directed by Presidential Biden's January 26, 2021, *Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships*, EPA is undertaking a review of its Tribal consultation activities and expects to formalize changes to our consultation practices. Changes in EPA practice include creating new documents to clarify appropriate consultation procedures, providing new training on consultation to identified EPA office and regional staff, and improving end-of-year reporting by offices and regions to better analyze the implementation of the Consultation Policy. EPA continues to prioritize effective implementation of the Consultation Policy and Treaty Rights Guidance by EPA offices and regions. Under the EPA Strategic Plan, Cross Agency Strategy 4, OITA reports on the level of appropriate use by offices and regions of the Treaty Rights Guidance.

In August 2021, EPA Administrator Michael Regan joined other Federal agencies in signing the Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Tribal Treaty Rights and Reserved Rights (Tribal Treaty Rights MOU). Through the Tribal Treaty Rights MOU, EPA will strengthen implementation of the Consultation Policy and consider tribal treaty and reserved rights early in its decision-making and regulatory processes while working to address climate change, among other actions.

In addition, in January 2022, OITA promulgated *Guiding Principles for Consulting with Alaska Native Claims Settlement Act Corporations* (Guiding Principles) providing clarity on the EPA's process for consulting with Alaska Native Corporations, as required under federal law. Implementation of these Principles will assist in EPA's stakeholder communication and inclusion efforts.

Tribal Partnership

Environmental and human health protection in Indian country and in areas of Tribal interest is a shared responsibility of Tribes, states, and the federal government. EPA is committed to strengthening its nation-to-nation relationship with American Indian and Alaska Native Tribal Nations. Due to the unique legal relationship between the federal government and tribes, the early, frequent, and substantial involvement of EPA's tribal partners is critical to the development and implementation of the nation's environmental programs. EPA will continue to emphasize frequent and early communication as a keystone of its partnership with Tribes whose concerns and existing regulatory programs must be thoughtfully considered to develop effective and lasting policies to our most pressing environmental challenges.

To meet these priorities, OITA coordinates the National Tribal Operations Committee (NTOC), consisting of the Administrator and EPA senior leadership, and 20 tribal representatives identified by the regions and known as the National Tribal Caucus (NTC) to improve communications and build stronger partnerships with Tribes. The NTOC meets to discuss implementation of the environmental protection programs for which EPA and the Tribes share responsibility as co-regulators. The NTC also meets on a monthly basis with EPA tribal program staff and advises EPA on Tribal environmental issues that are cross-media, cross-agency, or that may be emerging or urgent. The NTC communicates regularly with other Tribal Partnership Groups to provide expertise, regional viewpoints, and data to develop such priorities and recommendations.

SECTION IV. FLEXIBILITY AND GRANT PLANNING

Indian Environmental General Assistant Program (GAP): Tribal Capacity Building

Tribes receive a variety of financial and technical assistance from EPA to meet capacity building needs including the OITA-administered GAP program, EPA's largest tribal grant program. EPA provides GAP grant funds to assist Tribes in planning, developing, and establishing the capacity to implement federal environmental programs administered by the EPA. GAP funding also supports implementation of tribal solid and hazardous waste programs in accordance with the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act, or RCRA). In the FY 2018 Consolidated Appropriations Act, Congress gave EPA permanent authority to award GAP funds for Tribal solid waste and recovered materials collection, transportation, backhaul and disposal services.

OITA coordinates across EPA's national programs to ensure effective delivery of EPA technical assistance and EPA tribal capacity building programs, and to support applicable agency measures related to EPA grants programs. Effective delivery includes engaging with Tribes to negotiate ETEPs that reflect long-term goals for developing, establishing, and implementing environmental and human health protection programs in accordance with EPA authorities.

OITA works with the EPA regions to incorporate standard language into all GAP solicitation packages to ensure national consistency in the approach, communication, and application of the following guiding principles in awarding GAP grants:

- Ensure Tribes the opportunity to build capacity to implement federal environmental programs through EPA delegations, authorizations, and primacy designations, and to meaningfully participate and engage in EPA direct implementation activities,
- Promote Tribal self-governance by accomplishing mutually agreed upon environmental program goals found in the Tribe's ETEP, supporting development of Tribal core environmental program capacities for programs administered by EPA, and fostering Tribal capacity to assume the authority to implement programs administered by EPA,
- Promote intergovernmental collaboration and cooperative federalism among EPA, Tribes, states, and other federal partners,
- Support implementation of established solid and hazardous waste regulatory programs in accordance with applicable provisions of law, such as the Resources Conservation and Recovery Act; and
- Maintain strong national program management practices to produce compelling results that align with EPA's statutory authorities.

OITA remains committed to using GAP resources to assist in building Tribal capacity to implement delegable federal programs, support Tribal solid waste and hazardous waste programs, and to meaningfully participate and engage in EPA direct implementation activities.

OITA will continue to identify opportunities to increase flexibility and program administration efficiency through guidance, allocations, performance management, and training for EPA project officers and GAP recipients.

Additionally, since GAP is a PPG eligible program, OITA will coordinate with the National Environmental Performance Partnership System (NEPPS) office to ensure that Tribes receiving GAP funds through PPGs may take advantage of the full range of flexibilities available through NEPPS. For further discussion, see the [FY 2023-2024 Office of Congressional and Intergovernmental Relations \(OCIR\) National Program Guidance](https://www.epa.gov/planandbudget/national-program-guidances) (<https://www.epa.gov/planandbudget/national-program-guidances>) and <https://www.epa.gov/ocir/national-environmental-performance-partnership-system-nepps>.

EPA will, as appropriate, set aside a portion of GAP resources to support specific projects that have national or region-wide application, address a national or regional program priority, or seek to demonstrate the applicability of novel program activities to a broader set of eligible recipients. In FY2023 and FY2024, OITA will support Tribal solid waste codes and ordinances training and hazardous waste management activities in partnership with the Office of Land and Emergency Management, and activities to support implementation of the 2022 GAP Guidance. In FY2023, AIEO will use the national GAP set aside, up to 1% of the congressional appropriation, to supplement reductions to tribal grantees resulting from proposed changes to the allocation process. AIEO will prioritize set aside funding to Tribal government grantees to maintain their environmental program funding at FY2021 levels. While primarily a transitional approach to addressing reductions in the regional allocation, use of the set aside for this purpose may continue beyond FY2023 for GAP grants to federally recognized Tribes. This set aside is not intended to address fluctuations in congressional

appropriations and/or in the number of Tribal grantees receiving GAP, and does not include funding of regional priorities, such as meetings and special projects. If future congressional budgets are significantly reduced and if funding drops below what is required to maintain this minimum, AIEO will utilize the NPG, including Tribal consultation, to determine funding priorities.

SECTION V. FY 2023 NATIONAL PROGRAM MEASURES

FY 2023 National Program Guidance Measures

Subject Area (optional)	BFS Code (optional)	Measure Text	FY 2023 National Planning Target (optional)	Comments/Clarification
International Climate		By September 30, 2026, implement at least 40 international climate engagements that result in an individual partner commitment or action to reduce greenhouse gas (GHG) emissions, adapt to climate change, or improve resilience in a manner that promotes equity.		EPA Strategic Plan Goal 1.3 Long Term Performance Measure
U.S. / Mexico Border		Number of Border 2025 actions implemented in the US-Mexico Border area to improve water quality, solid waste management and air quality including those that address climate change, and advance emergency response efforts.		FY 2023 Congressional Budget Justification Measure
EPA Direct Implementation		By September 30, 2026, EPA programs with direct implementation authority will take at least 100 significant actions that will result in measurable improvements in Indian country		EPA Strategic Plan Goal 2.1 Long Term Performance Measure
Tribal Treaty Rights		By September 30, 2026, consider Tribal treaty rights as part of all EPA Tribal consultations that may affect Tribal treaty rights.		EPA Strategic Plan Cross Agency Strategy #4 Long Term Performance Measure

SECTION VI. CONTACTS

Contact Name	Subject / Program Area	Phone	Email
Lisa Berrios	GAP	(202) 564-1739	berrios.lisa@epa.gov
Lisa Berrios	ETEPs	(202) 564-1739	berrios.lisa@epa.gov
Andy Byrne	Direct Implementation	(202) 564-3816	byrne.andrew@epa.gov
Andy Byrne	Tribal Consultation	(202) 564-3816	byrne.andrew@epa.gov
Janice Sims	International	(202) 566-2892	sims.JaniceHQ@epa.gov
Mike Weckesser	OITA Planner	(202) 564-0324	weckesser.mike@epa.gov

Summary of Key Provisions for Tribes and Summary of PPG-Eligible Grants

Compilation of EPA's National Program Guidance Tribal References

Major Work Activity for Tribes or of Particular Tribal Interest	Programmatic Activities for Tribes	Page(s)
Improving Outdoor and Indoor Air Quality in Indian Country and ANVs	<p>Office of Air and Radiation</p> <ul style="list-style-type: none"> Section III: Improving Outdoor and Indoor Air Quality in Indian Country and Alaska Native Villages, which covers all OAR-related activities pertaining to tribes and Alaska Native Villages (ANV). 	26 -30
Pesticide Cooperative Agreements	<p>Office of Chemical Safety and Pollution Prevention</p> <ul style="list-style-type: none"> The Pesticide Program will provide funding to regions for tribal pesticide program cooperative agreements. This allows tribes and tribal consortiums to reduce pesticide risk through education and outreach, and helps tribes address their greatest pesticide-related challenges and build capacity. 	4 - 5
Pollinator Protection Efforts	<ul style="list-style-type: none"> EPA regions will work with tribes interested in either developing, updating, or enhancing their pollinator protection plans. When possible, regions will also provide information on webinars and education materials, as well as sources of pollinator protection information and contacts at the state or locally. 	5 - 8
Pesticides Worker Protection Efforts	<ul style="list-style-type: none"> Regional pesticide programs will support tribes and community representatives in their program implementation efforts of the 2015 Agricultural Worker Protection Standard rule revisions to better protect farmworkers and tribal communities from pesticide risk. 	8 - 10
Certification of Pesticide Applicators	<ul style="list-style-type: none"> Regional pesticide programs will work with tribes to help tribes better understand how their tribal pesticide applicators can be certified to use restricted use pesticides under certification plans that cover their area of Indian country. EPA regions will support tribes in the certification of tribal applicators under the EPA Plan for the Federal Certification of Applicators of Restricted Use Pesticides within Indian Country (EPA Plan). In addition, Regions will assist tribes interested in opting out of the EPA Plan or developing new or amending existing tribe-administered certification plans. 	10 - 13
Region-Specific Pesticide Projects	<ul style="list-style-type: none"> Some regional pesticide programs will focus their environmental justice work in areas that benefit tribes. 	13 - 14

Lead Risk Reduction Program	<ul style="list-style-type: none"> The Lead Risk reduction program will pursue a range of activities aimed at addressing and reducing childhood lead exposures, including partnering with tribes. 	17 - 23
Pollution Prevention	<ul style="list-style-type: none"> The Pollution Prevention is a non-regulatory program that works with tribes to facilitate the adoption of P2 approaches. 	23 – 27
SECTION III. IMPLEMENTING TRIBAL WORK	<ul style="list-style-type: none"> Goals and objectives in working with Tribal Pesticide Program Council (TPPC) and National Tribal Toxics Council (NTTC). 	27 - 28
SECTION IV. FLEXIBILITY AND GRANT PLANNING	<ul style="list-style-type: none"> Through the National Environmental Performance Partnership System (NEPPS), tribes are encouraged to continue the use of Performance Partnership Agreements (PPAs) and Performance Partnership Grants (PPG) as vehicles for continuous collaboration and for increasing administrative, financial, and programmatic flexibilities. 	28 - 30
ETEPS implementation	<p>Office of Congressional and Intergovernmental Relations</p> <ul style="list-style-type: none"> Section III: Implementing Tribal Work 	6 - 7
Tribal Government Collaboration and Consultation	<p>Office of Enforcement and Compliance Assistance</p> <ul style="list-style-type: none"> Section III.A: Engage in appropriate consultation, coordination, and communication with tribes on compliance monitoring and enforcement activities that may affect them as guided by the EPA Policy on Consultation and Coordination with Indian Tribes, the Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy, and the Guidance on Restrictions on Communicating with Outside Parties Regarding Enforcement Actions 	15
Compliance Monitoring in Indian Country	<ul style="list-style-type: none"> Section III.B: Conduct civil compliance monitoring activities in Indian country where EPA maintains direct implementation responsibility. Conduct oversight of civil inspections and compliance monitoring activities where tribes are approved to implement programs. This includes using the applicable compliance monitoring strategy, and EPA-Tribal Environmental Plans to help identify and set the number and type of yearly compliance monitoring activities. Ensuring inspectors who conduct inspections on behalf of EPA are trained and credentialed consistent with agency guidance, including the Guidance for Issuing Federal EPA Inspector Credentials to Authorize Employees of State/Tribal Governments to Conduct Inspections on Behalf of EPA and other applicable guidance, policies and training. 	16
Enforcement in Indian Country	<ul style="list-style-type: none"> Section III.B: Conduct civil and criminal enforcement activities in Indian country and to clean up contamination in Indian country to ensure that noncompliance does not result in a lesser degree of human health and environmental protection in Indian country than elsewhere in the United States. This includes applying the 	16

<p>Treatment in the Same Manner as a State</p> <p>Program-specific Activities</p>	<p>“Enforcement Principle” of the EPA Indian Policy, the Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy , the Questions and Answers on the Tribal Enforcement Process, and generally applicable enforcement response policies to address noncompliance at tribal facilities.</p> <ul style="list-style-type: none"> • Section III.B: Review tribal government applications for regulatory program approval to ensure adequate compliance monitoring and enforcement authority. • Section IV.B: For tribes that have been authorized to implement federal enforcement and compliance assurance programs, expectations for each authorized program area are described in Section IV.B. 	<p>17</p> <p>17</p>
<p>EJ Grants</p> <p>Include standardized language in written agreements</p> <p>New partnerships with tribal colleges, universities & indigenous institutions</p>	<p>Office of Environmental Justice</p> <ul style="list-style-type: none"> • When receiving EJ grants, work with Project Officer to track governmental responses via the reporting checklist. • Include language on addressing disproportionate impacts in communities with EJ concerns when initiating written agreements (e.g., grant work plans). • Share opportunities with college students in tribal colleges and universities and indigenous institutions to apply for paid internships, fellowships, or clerkships. 	<p>7</p> <p>8 - 9</p> <p>11 - 12</p>
<p>OLEM Program Tribal Support Cooperative Agreements</p> <p>Direct Implementation</p> <p>Coordination and Consultation</p> <p>Cleanup and revitalization of land</p> <p>Environmental Justice</p>	<p>Office of Land and Emergency Response</p> <ul style="list-style-type: none"> • Funding and technical assistance to support the annual Tribal Lands and Environment Forum conference, the Tribal Waste and Response Steering Committee, the Tribal Superfund Working Group, trainings, research, and online resources. • Work directly with tribes to implement federal environmental programs in Indian country. • Coordinate outreach and consult with tribes on OLEM regulatory actions. • Work with tribes to conduct cleanups in Indian country and support the reuse and revitalization of land. • OLEM EJ and tribal programs will coordinate and collaborate with the American Indian Environmental Office’s workgroup on implementing the EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples. Integrating EJ principles in a consistent manner in the agency's work throughout Indian country, will promote the health and 	<p>39 - 40</p> <p>23, 28,33-35</p> <p>39 - 40</p> <p>5-10, 15, 23, 33-35</p> <p>37, 38</p>

	environment of federally recognized tribes, indigenous people and others living in Indian country.	
Superfund remedy climate change resilience	<ul style="list-style-type: none"> The Superfund remedial program takes into consideration climate change by assessing vulnerabilities at contaminated sites and identifying measures to assure climate resilience of Superfund site remedies. Multiple Superfund sites with Native American interest are potentially impacted by climate change. 	4, 5
Superfund lead exposure	<ul style="list-style-type: none"> The Superfund remedial program is working to reducing exposure to lead to protect families, particularly children, at Superfund sites. Multiple Superfund sites with Native American interest are potentially impacted by lead contamination. 	2, 4, 5, 8
Superfund PFAS	<ul style="list-style-type: none"> EPA is considering PFOA and PFOS for designation as hazardous substances under CERCLA. The Tribal PFAS Working Group and other tribal environmental groups have expressed their desire to help address and reduce PFAS in Indian country. 	3 – 5, 8
Superfund Federal Facilities Partnerships	<ul style="list-style-type: none"> Host the EPA Federal Facility Academy training program. The training program consists of a series of webinars and traditional or virtual classroom training with the objective of improving knowledge and ensuring national consistency to effectively manage the cleanup of federal facility NPL sites, strengthen relationships across agencies and increase understanding of regulations and policies. The intended participants for the program are EPA federal facility Remedial Project Managers and project managers from OFAs, state government and tribal groups. 	10
Abandoned Uranium Mines	<ul style="list-style-type: none"> Advance cleanup and revitalization of abandoned uranium mining impacted Navajo Nation and surrounding lands in the Southwest. 	5, 6, 10, 11
Emergency Response	<ul style="list-style-type: none"> Work with tribes, tribal organizations, and our regional programs to help tribes build capacity for emergency management. Respond to emergency, oil spill, chemical release, and other incidents; support tribes’ participation in the National and Regional Response Teams. 	11
Oil Discharge Prevention and Preparedness	<ul style="list-style-type: none"> Identifying, evaluating, and inspecting regulated facilities in Indian country. 	13
Brownfield Resources	<ul style="list-style-type: none"> Brownfields cooperative agreement funding, training, technical assistance, and research. 	16 - 17
Brownfields 128(a) funding/ Bi-partisan Infrastructure Law (BIL)	<ul style="list-style-type: none"> The Brownfields program plans to award an additional \$60 million in 128(a) funding for states and tribes in both FY 2023 and FY 2024. 	17

<p>Recycling and Circular Economy funding/ The Bipartisan Infrastructure Law (BIL)</p>	<ul style="list-style-type: none"> • Continue to engage with EPA at the regional or national level on data needs, implementation of the newly funded BIL grant programs, and activities undertaken in support of the circular economy strategy series. 	<p>30 - 31</p>
<p>Recycling, food waste, sustainable materials management</p>	<ul style="list-style-type: none"> • Support and technical assistance related to the circular economy. Increase awareness of opportunities, challenges, and solutions to reducing food loss and waste at various points in the food system. 	<p>32 - 33</p>
<p>Protecting Tribal Waters</p>	<p>Office of Water</p> <ul style="list-style-type: none"> • Promulgation of Tribal Baseline Water Quality Standards Under the Clean Water Act. • Revisions to the federal water quality standards regulations to protect Tribal reserved rights. 	<p>16</p>
<p>Strengthening the Nation-to-Nation Relationship with Tribes</p>	<p>Strengthening the Nation-to-Nation Relationship with Tribes to Secure a Sustainable Water Future.</p> <ul style="list-style-type: none"> • Focus Area 1: Promote Robust Coordination and Meaningful Consultation with Tribal Nations. • Focus Area 2: Strengthen and Expand Water Governance in Indian Country. • Focus Area 3: Increase Infrastructure Funding and Capacity Development. • Focus Area 4: Honor the Federal Trust Responsibility and Protect Tribal Reserved Rights Related to Water Resources. 	<p>20 - 22</p>
<p>Tribal Metrics</p>	<p>New Tribal metrics added.</p>	<p>32 - 33</p>